

This version shows by strikethrough and underline changes to the version of Rule 17.1 that was appended to the rule petition that was filed in January 2020.

Rule 17.1. The Defendant's Plea.

- (a) **Jurisdiction; Personal Appearance.** [no change]
 - (b) **Voluntary and Intelligent Plea.** [no change]
 - (c) **No Contest Plea.** [no change]
 - (d) **Record of a Plea.** [no change]
 - (e) **Waiver of Appeal.** [no change]
- (f) **Limited Jurisdiction Court Alternatives for Entering a Plea.** The provisions of Rule 26.9, which require a defendant to be present at the time of sentencing, are met by the requirements of this section.

~~(1) **Telephonic Pleas.**~~

~~(1) Eligibility.~~ **Telephonic Pleas.** “Telephonic” includes voice only communications between the court and the parties, and an application that permits video in addition to voice communications. The provisions in this subpart concerning telephonic pleas also apply to pleas submitted through an online dispute resolution (“ODR”) system.

(A) Discretionary. A limited jurisdiction court has discretion to accept a telephonic plea of guilty or no contest to ~~an offense if the defendant provides written certification and the court finds the defendant:~~ any misdemeanor offense.

~~(i) resides out of state or more than 100 miles from the court in which the plea is taken; or~~

~~(ii) has a serious medical condition so that appearing in person would be an undue hardship, regardless of distance to the court.~~

(B) Procedure. The defendant must submit the plea in writing to the court, and the writing must be substantially in the form set forth in Rule 41, Form 28. If authorized by the court, the defendant may submit telephonic plea documents through an online dispute resolution system, and Form 28 may be used for that process. The documents the defendant submits for a telephonic plea ~~It~~ must include ~~the following:~~

- (i) a statement by the defendant that the defendant has read and understands the information in the form, waives applicable constitutional rights for a plea, and enters a plea of guilty or no contest to each of the offenses in the complaint; and or to the offense or offenses described in a written plea agreement;
- (ii) a legible photocopy of the defendant's driver's license or other government-issued photo identification that contains the defendant's name and birth date;
and
- (iii) any other forms the court or the parties deem necessary for completing a plea under the circumstances of the case.

(C) Fingerprint.

(i) If the defendant is entering a plea to an offense described in A.R.S. § 13-607(A), Form 28 must also contain a signed certification from a ~~peace~~law enforcement officer in the state in which the defendant resides —or, if the defendant is an Arizona resident, a peace officer in the county in which the defendant resides—that the defendant personally appeared before the officer and signed the certification described in (f)(1)(B)(i)-Form 28, and that the officer ~~affixes~~ affixed the defendant's fingerprint to the form; ~~and.~~

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(ii) If the defendant is entering a plea to an offense described in A.R.S. § 13-607(A) and the defendant's plea form does not include the defendant's fingerprint and the certification of a law enforcement officer, as required by this subpart, the court may defer acceptance of the plea until the defendant has submitted the required fingerprint and certification, or until the defendant appears in open court for sentencing and provides a fingerprint at that time.

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(iii) Instead of requiring a certification and fingerprint, the court may permit another method of proving the defendant's identification on Form 28, including but not limited to allowing the defendant to use a notary public to witness the defendant's signature on the form.

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(iv) any other forms provided by the prosecutor that are deemed necessary for completing a plea under the circumstances of the case.

(D) *Judicial Findings.* Before accepting a plea, the court must hold aan in-person or telephonic hearing with the parties, inform the defendant that the offense may be used as a prior conviction, and find:

- (i) it has personally advised the defendant of the items set forth in ~~the form~~ Form 28;
 - (ii) a factual basis exists for believing the defendant is guilty of the ~~charged~~ offenses to which the defendant pleads; and
 - (iii) the defendant's plea is knowingly, voluntarily, and intelligently entered.
- (E) *Sentencing.* After entry and acceptance of ~~a telephonic~~ the plea, ~~and notwithstanding Rule 26.9 and A.R.S. § 13-607,~~ the court may proceed to ~~telephonically~~ sentence the defendant, either on the same day or subsequently, in-person or telephonically.
- (F) *Victim's Rights.* In a telephonic plea proceeding, a victim has the same rights under Rule 39 to notice and participation as if the defendant physically appeared in the courtroom.
- (2) *Plea by Mail.* [no change]